IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPLICATION NO. 782 OF 2007

The State of Maharashtra. ... Applicant.

V/s.

1. Jaywant Dattatraya Kudle.

2. Tasgaon Urban Cooperative Bank Ltd., Tasgaon. ... Respondents.

Ms.S.D.Shinde, A.P.P. for the applicant- State.

Umesh Mankapure respondent No.1.

S.S.Patwardhan for respondent No.2.

CORAM: V.C.DAGA, J.

DATED: 27th November 2007.

P.C. :

. Heard learned A.P.P. for the applicant-State, learned counsel for the respondent No.1-accused and learned counsel for respondent No.2- bank. Perused record.

2. The State of Maharashtra has moved this application for cancellation of anticipatory bail so also to arrest the respondent No.1- accused Shri Jaywant Dattatraya Kudle ("the accused" for short).

3. The factual matrix, in brief, is that there was complaint of misappropriation of money by the original accused No.5 Ananda Tukaram Akale in collusion with bank staff while dealing with the Tasgaon Urban Co-operative Bank ("said bank" for short) resulting in registration of F.I.R. vide Crime No.87/2006.

4. The present accused is employee of the said bank who was working as clerk in its Kavate-Mahankal Branch.

5. The alleged misappropriation relates to the cash credit account of the accused No.5 resulting from telephonic/telegraphic transfers made therefrom.

6. It is the prosecution case that this was possible only because of the collusion between the bank officials and co-accused Mr.Ananda Akale by hatching a conspiracy to misappropriate the amount. Large amount to the tune of Rs.42,22,820/- appears to have been misappropriated.

7. The present accused and accused No.5 have been granted anticipatory bail by the Principal Session Judge, Sangli vide order dated 18th December, 2006. The application moved by the State being Criminal

Application No.776/2007 arising out of the same crime seeking cancellation of bail granted to accused No.5 has been partly allowed by this Court vide separate order dated 27th November, 2007 and accused No.5 is directed to surrender before the regular Court. He is also permitted to seek regular bail from the regular Court.

8. In view of the above order dated 27th November, 2007 and for the reasons recorded therein, which hold good even in respect of the present accused (Resp.No.1), I limit the operation of the anticipatory bail for the period of four weeks from today and direct the present respondent No.1- accused to surrender before the regular Court to seek regular bail which the Court below shall be free to decide in accordance with law in the light of various cases referred to in the above order dated 27th November 2007.

9. I make it clear that it is not necessary to repeat reasons in support of this order since I am relying on the reasons recorded by me in the case of accused No.5 while deciding Criminal Application No.776/2007. I adopt the same reasons in support of

this order. I further make it clear that I did not express any opinion on the merits of the case. When the bail application would be moved in terms of section 439 of Cr.P.C. before the concerned Court, the same shall be considered in its proper perspective in accordance with the law laid down by the Apex Court in the matter of grant of bail and importance of custodial interrogation. If the application for bail is moved, the concerned Court shall do well to dispose it of with expeditious despatch provided sufficient advance notice is given to the State.

10. In the result, application is partly allowed in the terms of this order.

JUDGE